



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 15, 2005

### **S. 212**

#### **Valles Caldera Preservation Act of 2005**

*As ordered reported by the Senate Committee on Energy and Natural Resources  
on February 9, 2005*

#### **SUMMARY**

S. 212 would amend Public Law 106-248, which established the Valles Caldera Preserve in New Mexico and created the Valles Caldera Trust, a government-owned corporation, to manage the preserve. The amendments to the existing law would enable the Secretary of Agriculture to acquire, by condemnation, certain subsurface rights to the preserve's Baca Ranch area if the Secretary cannot negotiate a voluntary sale with the current owners. If condemnation is necessary, the owners would be entitled to just compensation as determined by a court. The bill would specify that any difference between the Secretary's estimate of the value of the subsurface rights and the amount awarded by the court would be paid from the permanent claims and judgments fund.

Assuming that the Baca Ranch subsurface rights would be acquired by a government declaration of taking (a method of condemnation), CBO estimates that enacting S. 212 would increase direct spending by about \$3 million over the 2005-2008 period. Enacting the bill would not affect revenues.

S. 212 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would have no significant impact on the budgets of state, local, or tribal governments. In the event that the Secretary of Agriculture uses a declaration of taking to acquire certain mineral interests of the Baca Ranch, such an acquisition would constitute a private-sector mandate as defined by UMRA. The cost of the mandate would be the fair market value of the mineral interests and expenses incurred by the private-sector owners in transferring those interests to the federal government. Based on information from government sources, CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 212 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment) and 800 (general government).

	By Fiscal Year, in Millions of Dollars										
	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
<b>CHANGES IN DIRECT SPENDING</b>											
Estimated Budget Authority	0	0	0	1	0	0	0	0	0	0	0
Estimated Outlays	2	0	0	1	0	0	0	0	0	0	0

## BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 212 will be enacted during fiscal year 2005 and that the federal government will assume ownership of the Baca Ranch subsurface rights soon thereafter. Based on information provided by land management agencies regarding the value of mineral rights, the historical “premiums” paid for property acquired by litigation, and the length of time typically required to resolve similar takings proceedings, we assume that a court would award a total of \$3 million in compensation to the owners of the subsurface rights over the 2005-2008 period.

As provided by the bill, \$2 million of the expected judgment award (equal to the government appraisal of the subsurface value) would be derived from existing appropriations for land acquisition, and \$1 million (the estimated excess of the award over the appraised value) would be paid from the permanent claims and judgments account. Because we expect that the \$2 million of previously appropriated funds would not have been spent in the next several years in the absence of the legislation, using that amount to pay a portion of the judgment would increase mandatory outlays. We expect that the \$2 million would be paid to the property owners or deposited with the court when the agency takes possession of the subsurface rights in 2005. Using the permanent claims and judgments account to pay the difference between the total award and the appraised value would increase both budget authority and outlays by \$1 million.

## **ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS**

S. 212 contains no intergovernmental mandates as defined in UMRA and would have no significant impact on the budgets of state, local, or tribal governments.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

In the event that the Secretary of Agriculture uses a declaration of taking to acquire certain mineral interests of the Baca Ranch, such an acquisition would constitute a private-sector mandate as defined by UMRA. The cost of the mandate would be the fair market value of the mineral interests and expenses incurred by the private-sector owners in transferring those interests to the federal government. Based on information from government sources, CBO estimates that the direct cost of the mandate would fall well below the annual threshold established by UMRA for private-sector mandates (\$123 million in 2005, adjusted annually for inflation).

The bill would direct the Secretary of Agriculture to acquire the mineral interests without the seller's consent should negotiations for a sale fail after 60 days. Should those negotiations fail, the Secretary of Agriculture would be required to file a declaration of taking with the court. The declaration of taking would force the owners of the geothermal and mineral interests to give up ownership in exchange for a sum equal to the fair market value as determined by the court. According to an appraisal done by the Forest Service in 2001, the mineral and geothermal interests on the Baca Ranch that are privately held have a fair market value of almost \$2 million. In December 2001, the Forest Service's offer for purchase of the interests based on this appraisal was rejected.

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